

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

UNITED STATES OF AMERICA	)	MATTICE/CARTER
	)	
v.	)	CASE NO. 1:13-CR-89
	)	
GERALD TONEY	)	

**ORDER**

On May 13, 2014, Magistrate Judge William B. Mitchell Carter filed a Report and Recommendation recommending (a) the Court accept Defendant's plea of guilty to the lesser included offense in Count One of the Second Superseding Indictment, conspiracy to distribute 28 grams or more of a mixture and substance containing a detectable amount of cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and (b)(1)(B), in exchange for the undertakings made by the government in the written plea agreement; (b) the Court adjudicate Defendant guilty of the charges set forth in the lesser included offense in Count One of the Second Superseding Indictment; (c) that a decision on whether to accept the plea agreement be deferred until sentencing; and (d) Defendant shall remain in custody pending sentencing in this matter (Doc. 381). Neither party filed an objection within the given fourteen days. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

(1) Defendant's plea of guilty to the lesser included offense in Count One of the Second Superseding Indictment, in exchange for the undertakings made by the government in the written plea agreement, is **ACCEPTED**;

(2) Defendant is hereby **ADJUDGED** guilty of the charges set forth in the lesser included offense in Count One of the Second Superseding Indictment;

(3) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing;  
and

(4) Defendant **SHALL REMAIN IN CUSTODY** pending sentencing on **Monday, August 18, 2014, at 9:00 am.**

**SO ORDERED.**

**ENTER:**

/s/ Harry S. Mattice, Jr.  
HARRY S. MATTICE, JR.  
UNITED STATES DISTRICT JUDGE